

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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MAY 19 2006

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PUBLIC SERVICE
COMMISSION

In the Matter of:

ADJUSTMENT OF RATES)
OF CUMBERLAND VALLEY)
ELECTRIC, INC.)

FINANCIAL ANA
CASE NO. 2005-00187

**CUMBERLAND VALLEY ELECTRIC, INC.'S REPLY TO THE ATTORNEY
GENERAL'S MOTION FOR A COMPLETE FINANCIAL, OPERATIONAL
AND MANAGEMENT AUDIT OR REVIEW**

*** **

Comes now Cumberland Valley Electric, Inc., (hereinafter called "CVE") and for its reply to the Motion of the Attorney General for a complete financial, operational and management audit or review in the above matter, states as follows:

It is noted from the outset of this reply that the Attorney General, has not shown by the evidence and testimony presented or otherwise, any impact upon the rate case presently before the Commonwealth of Kentucky Public Service Commission (hereinafter called "Commission"). In fact, a review of the testimony of the Attorney General's expert, Mr. David H. Brown Kinloch, will reveal to the Commission that none of the arguments contained in this motion were addressed by Mr. Kinloch in his testimony (see transcript of evidence of David H. Brown Kinloch, pgs. 147-151).

COUNTER ARGUMENT

The management of CVE has not caused harm to its members. The Attorney General insists that due to the fact that several members of the Hampton family work in

various positions for CVE, in and of itself, causes its members financial harm. CVE will state again that the Attorney General, to date, has not produced the first shred of evidence which would indicate that any of the business practices complained of by the Attorney General have financially adversely affected CVE's members. It should be noted from the outset that Ted Hampton was first hired by Cumberland Valley Electric in 1964. At the time of his hiring, his brother, Elbert Hampton, was already employed by CVE. It is a fact that Ted Hampton hired Karen Hampton in 1968, however, at the time of her hiring she was Karen Dozier. Only after the hiring of Karen Hampton did she become a member of the Hampton family.

The Attorney General complains of the inadequacy of charge for work done for the Whitley County School System. Attached as Exhibit "A" is a copy of CVE's policy statement which addresses that issue. Since 1983, it has been the policy of CVE that the relocation or construction of lines to any school or church in Cumberland Valley's territory, would be relocated or constructed at no cost.

The Attorney General also addresses the Knox Auto Parts Company which was, at one time, partially owned by Steve Hampton. It should be noted that during the discovery of this matter CVE provided the Attorney General with all invoices and payments made to Knox Auto Parts for the past ten (10) years. The Attorney General still feels that an audit is necessary to show the "... questionable nature, if any, of these purchases." The Attorney General has relied heavily upon the testimony of Joe Carroll for this and other aspects of its motion herein. The relationship of Mr. Carroll, CVE and Ted Hampton will be discussed later. The Attorney General goes on to say that "Information shared in confidence . . ." could be discovered through an audit regarding

Knox Auto Parts. The fact of the matter is that all of the Knox Auto Parts bills were provided to the Attorney General by earlier request, and after having those bills in his possession, the Attorney General has not offered any evidence that the purchases made by CVE from Knox Auto Parts were unreasonable, unnecessary or otherwise detrimental to CVE's members. It should also be noted that the Attorney General's expert witness, Mr. David H. Brown Kinloch, did not mention this issue in giving his opinion (see testimony of Mr. David H. Brown Kinloch, pgs. 147-151).

In his motion substantial attention is given by the Attorney General to the CVE purchase of a bulldozer from 5-C Construction Company. The Attorney General argues that the purchase price of \$60,000.00 was too high. The Attorney General's motion goes on to say that simple research would show that the purchase of similar equipment could have been purchased at a considerable lower price. Again, CVE would point out that if such research was a simple thing to do and a lower price could have been obtained, why did the Attorney General not address this issue at the hearing and through its expert witness, David H. Brown Kinloch. Moreover, it is important to note that at the time the bulldozer was purchased, it had with it two (2) bush hog attachments, a hydraulic attachment for the bush hogs and a gearbox drive for the power to operate the bush hog. It is apparent that the Attorney General relied upon information provided by Joe Carroll regarding the value of this equipment. The gear box and hydraulic lift attachments are valued at \$25,000.00 and the bush hogs at about \$4,800.00 each.

The Attorney General claims that the anti-nepotism policy of CVE is a ". . . meaningless fiction" and that the existing anti-nepotism ". . . is highly detrimental to the

ratepayers" of CVE. This Commission is aware, by virtue of its own reports, that CVE has, as of the date hereof and prior to this application for a rate increase, had the lowest rates of any cooperative utility in the Commonwealth of Kentucky. Moreover, CVE has not requested a rate increase since 1980. If, and CVE believes it does, Kentucky offers the lowest cooperative electric rates in the Eastern United States, then, arguably, CVE has the lowest cooperative utility rates east of the Mississippi River according to Rural Utility Services. **This is not the result of a ". . . individual or family just running CVE like any other business to the detriment of its ratepayers" as claimed by the Attorney General.**

RIGHT-OF-WAY AND CONSTRUCTION CONTRACT

Much criticism has been made by the Attorney General about the CVE right-of-way contract with Lay Tree and Brush. The Attorney General states specifically that when Lay Tree and Brush replaced Asplundh and Townsend in 1981 that Asplundh and Townsend were using the construction unit compensation method at that time. The fact of the matter is that Asplundh and Townsend both used a per hour basis contract, the same as is being used by Lay Tree and Brush. In addition, the Attorney General makes the argument that by CVE furnishing its equipment to Lay Tree and Brush the ratepayers of CVE are penalized by paying more. The fact of the matter is that all bids are taken for personnel as well as equipment. *Copies of the request for bid, response letters to the request and bidding summary are attached herewith as composite Exhibit "B."* The further fact is that contractors whether, construction or right-of-way, do not want CVE to provide rolling stock equipment for their use. The reason for this is evident

by the attached documents showing the cost of the rental such equipment. Obviously, the contractor loses profit by not being able to charge for equipment. The Attorney General seems to think that the Lay Tree and Brush could bid lower labor cost if it knew that its equipment costs were covered. The converse is actually true. If the contractor knows it will not receive money for equipment, its only profit can be made by raising the cost per hour of the labor it provides. The Attorney General is misleading the Commission by its statement that CVE would "cover the equipment cost" of certain contractors. The fact that CVE provides the equipment to contractors enables it to get the work done at a rate much less than it could have leased the contractor's equipment under the contract.

With respect to all contracts to which the Attorney General refers in his motion, CVE would state that bids are made on a biannual basis and the contracts are awarded to the lowest bidder.

JOE CARROLL AND CVE

As stated earlier, the relationship of Joe Carroll, CVE and Ted Hampton is a major component of the Attorney General's interest in this case. Apparently, Joe Carroll has had several contacts with the Attorney General regarding this case (see deposition of Joe Carroll, pgs. 8-9). It is more than obvious that the Attorney General has relied upon the representations of Joe Carroll on much of the criticisms he has had against CVE.

Joe Carroll is a disgruntled former employee of CVE. When asked why he was terminated as an employee of CVE on July 27, 2004, Mr. Carroll stated, ". . . I have my

opinions.” (See deposition of Joe Carroll, pg. 61). During the test year, 2004, from January 1 through July 27, the date of the termination of Joe Carroll as an employee of CVE, he was absent from work over forty percent (40%) of the time.

Moreover, after his dismissal in July of 2004, Mr. Carroll was requested to return certain equipment he had ordered for CVE which was in his possession in Bell County, Kentucky. This request was made by Mr. Ted Hampton on August 26, 2004 (a copy of that letter is attached hereto as Exhibit “C”). The value of the equipment was \$33,416.13. A civil suit was filed on November 17, 2004 demanding payment for the equipment or its return to CVE (see CVE Exhibit #1 to deposition of Joe Carroll). A few days later, Kathy Redmond, Joe Carroll’s mother, returned the equipment to CVE.

The Attorney General has relied upon innuendo and supposition provided by Mr. Carroll to attack CVE and its management. It is unjustified and should be considered only after serious evaluation of the credibility of that witness. Interestingly, while Mr. Carroll was present at the April 11, 2006 hearing, the Attorney General chose not to call him as a witness.

CONCLUSION

The Attorney General, by virtue of the evidence presented, has not shown the justification for a complete financial, operational and management audit. The Commission is again reminded of CVE’s excellent record of providing the lowest rates to its customer/members and that it has not requested a rate increase since 1980. This is an improper effort on behalf of the Attorney General to extend the rate case. The Commission has already stated in its order of March 14, 2006 that it “. . . will determine

the appropriate actions, if any, that should be taken regarding management operations of CVE when this case is concluded."

CVE states that it does not object to a review by the Commission.

Respectfully submitted,

Hon. Gillard B. Johnson, III
Hon. Eric Lycan
Cox Bowling & Johnson, PLLC
1010 Monarch Drive, Suite 250
P.O. Box 910810
Lexington, KY 40591-0810

And

A handwritten signature in black ink, appearing to read "W. Patrick Hauser", is written over a horizontal line. The signature is stylized and cursive.

W. PATRICK HAUSER
P. O. Box 1900
Barbourville, KY 40906
(606) 546-3811
**ATTORNEYS FOR PETITIONER,
CUMBERLAND VALLEY ELECTRIC, INC.**

CERTIFICATE OF SERVICE

Counsel certifies that an original and ten photocopies of the foregoing Cumberland Valley Electric, Inc's Reply to the Attorney General's Motion for a Complete Financial, Operational and Management Audit or Review was served by hand delivery to Beth O'Donnell, Executive Director, Public Service Commission, 211 Sower Boulevard, Frankfort, Kentucky 40601; furthermore, it was served by mailing a true and correct copy of the same, first class postage prepaid, to Hon. Dennis G. Howard, II,

Hon. Elizabeth E. Blackford, Hon. Lawrence W. Cook, Assistant Attorneys General,
1024 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601-8204, all on this 19th
day of May, 2006.



W. PATRICK HAUSER
ATTORNEY AT LAW

2/11/83
Pleas Jones, atty

CUMBERLAND VALLEY RURAL ELECTRIC COOPERATIVE CORPORATION
POLICY STATEMENT NO. 51
Section R

SUBJECT: Relocating and Construction of lines to Schools and Churches.

POLICY: If it becomes necessary to relocate or construct lines to any school or church, Cumberland Valley RECC will relocate or construct the line or lines at no cost.

SOURCE: Adopted by the board of directors on February 17, 1983.

APPROVED BY THE BOARD OF DIRECTORS

Ray Baird
President



Ted Hampton
Manager

Telephone: (606) 528-2677
(606) 546-9295
(606) 589-4421
FAX: (606) 528-8458

CUMBERLAND VALLEY ELECTRIC

P.O. Box 440
Gray, Kentucky 40734

P.O. Box C
Cumberland, Kentucky, 40823

October 31, 2002

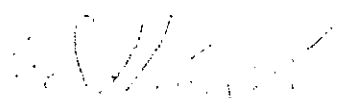
Asplundh Tree Service
Attn: Chuck Combs
202 Two Oaks Drive
Nicholasville, KY 40356

Dear Sir:

The purpose of this letter is to solicit quotations for rights-of-way clearing for the calendar years 2003 and 2004. Cumberland Valley Electric run four (4) trimming crews annually consisting of a working foreman, two (2) trimmers and a general laborer plus the contractor is responsible for furnishing the necessary saws, trucks and related equipment to do the job.

If you are interested in giving us a proposal, please forward the proposal to us no later than November 15, 2002 and I will evaluate your proposal along with the others and if you are successful, I will advise.

Sincerely,



Ted Hampton, Manager

TH:df

EXHIBIT
B

Ted Hampton
Manager

Telephone: (606) 528-2677
(606) 546-9295
(606) 589-4421
FAX: (606) 528-8458

CUMBERLAND VALLEY ELECTRIC

P.O. Box 440
Gray, Kentucky 40734

P.O. Box C
Cumberland, Kentucky, 40823

October 31, 2002

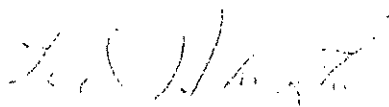
The Townsend Tree Service Co., Inc.
128 Division Street
Erlanger, KY 41018

Dear Sir:

The purpose of this letter is to solicit quotations for rights-of-way clearing for the calendar years 2003 and 2004. Cumberland Valley Electric run four (4) trimming crews annually consisting of a working foreman, two (2) trimmers and a general laborer plus the contractor is responsible for furnishing the necessary saws, trucks and related equipment to do the job.

If you are interested in giving us a proposal, please forward the proposal to us no later than November 15, 2002 and I will evaluate your proposal along with the others and if you are successful, I will advise.

Sincerely,



Ted Hampton, Manager

TH:df

Ted Hampton
Manager

Telephone: (606) 528-2677
(606) 546-9295
(606) 589-4421
FAX: (606) 528-8458

CUMBERLAND VALLEY ELECTRIC

P.O. Box 440
Gray, Kentucky 40734

P.O. Box C
Cumberland, Kentucky, 40823

October 31, 2002

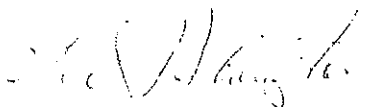
Lay Tree & Brush Company, Inc.
Attention: Kenneth Lay
P O Box 1411
Barbourville, KY 40906

Dear Sir:

The purpose of this letter is to solicit quotations for rights-of-way clearing for the calendar years 2003 and 2004. Cumberland Valley Electric run four (4) trimming crews annually consisting of a working foreman, two (2) trimmers and a general laborer plus the contractor is responsible for furnishing the necessary saws, trucks and related equipment to do the job.

If you are interested in giving us a proposal, please forward the proposal to us no later than November 15, 2002 and I will evaluate your proposal along with the others and if you are successful, I will advise.

Sincerely,



Ted Hampton, Manager

TH:df



2003/2004
RIGHT OF WAY CLEARING BIDS

<u>PERSONNEL</u>	<u>ASPLUNDH</u>	<u>LAY TREE & BRUSH</u>	<u>TOWNSEND TREE</u>
	2003	2003	2003
FOREMAN	19.03	17.51	17.60
TRIMMER A	17.66	17.00	16.00
LABORER	13.63	9.37	12.96
PICK-UP	6.00	6.75	6.50
DUMP	5.75	2.15	2.15 EST
CHIPPER	2.25	1.35	2.65
POWER SAW	.60	.90	.50
<hr/>			
TOTALS	\$64.92	\$55.03	\$58.36
PERCENT INCREASE 2003	N/A	3.3%	N/A
PERCENT INCREASE 2004	N/A	2.6%	2.1%

7

LAY TREE & BRUSH COMPANY, INC.
U.S. 25E
BAILEY SWITCH, KENTUCKY 40905

Owner: Kenneth Lay

Phone 606-546-8725

Forming part of the general agreement between CUMBERLAND VALLEY
ELECTRIC, INC., AND LAY TREE AND BRUSH, INC.

LABOR, MATERIAL &
EQUIPMENT RATES

EFFECTIVE: January 1, 2003
EXPIRES: December 31, 2004

REGULAR BILLING RATE: Covers (40) hour work week (four 10 hour
days) with privilege of making lost time by extending the work week
or work day to include Saturdays.

OVERTIME BILLING RATE: 1 1/2 OF REGULAR RATE WHEN AUTHORIZED

PERSONNEL: 2003 Per Hour Billing 2004 Per Hour Billing

FOREMAN	\$17.51	\$18.04
TRIMMER	\$17.00	\$17.50
LABOR	\$ 9.37	\$ 9.75

GENERAL FOREMAN	\$15.97	\$16.25
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<u>EQUIPMENT</u>	<u>PER CREW HOUR</u>	<u>PER CREW HOUR</u>
POWER SAW	\$.90	\$.90
TRUCK 3/4 TON 4X4	\$ 6.75	\$ 6.75
CHIP DUMP TRUCK	\$ 2.15	\$ 2.15
BRUSH CUTTER	\$ 1.35	\$ 1.35

APPROVED:

CUMBERLAND VALLEY ELECTRIC, INC.

BY: _____

DATE _____

SUBMITTED:

LAY TREE AND BRUSH, INC.

BY: *Kenneth Lay*

DATE 11-12-02



Townsend Tree Service Inc. P.O. Box 128 Parker City, IN 47368-0128 765 468 3007 FAX 765 468 3131

November 11, 2002

Mr. Ted Hampton
Cumberland Valley Electric
P.O.Box 440
Gray, Kentucky 40734

Re: Hourly Rates 2003 & 2004

Dear Mr. Hampton:

Please find listed below our proposed rates for the next two years. Personnel per hour and equipment per crew hour.

Personnel & Equipment

Personnel 2003

Foreman	\$17.60
Trimmer	16.00
A-Trimmer	14.00
Laborer	12.96

Personnel 2004

Foreman	\$18.13
Trimmer	16.48
A-Trimmer	14.83
Laborer	13.18

Equipment 2003 & 2004

Bucket Truck	\$10.00
Manual Truck	6.00
Pickup 2x4	6.10
Pickup 4x4	6.50
Chipper	2.65
Large Chipper	3.50
Power Saw (each)	.50

Thank you, for the opportunity to submit these rates, if you have any other question please contact my office at 859-371-5972 & Cell 859-802-6982.

New Address
3969 Deerpark dr
Erlanger, KY 41018

Sincerely,

Mac McMullen, Area Manager

ASPLUNDH

ASPLUNDH TREE EXPERT CO.

202 TWO OAKS DRIVE, NICHOLASVILLE, KY 40356 • AREA CODE 859 • TELEPHONE 887-5902 • FAX 687-5956

DAVID L. ELLIFRITZ
MANAGER

Nov. 8, 2002

Mr. Ted Hampton
Manager
P.O. Box 440
Gray, Kentucky 40734

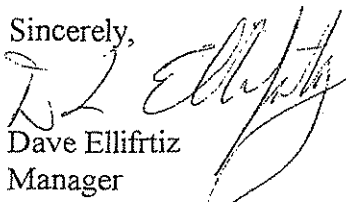
Dear Mr. Hampton

The Asplundh Tree Expert Co would like to thank Cumberland Valley Electric for the opportunity to submit a proposal for your right-of-way clearing work for 2003.

Your letter indicated that Cumberland Valley Electric was soliciting pricing for four (4) right-of-way crews. All four (4) of these crews are to be manual crews. In the proposal you will see labor and equipment rates that should cover your needs with this crew make-up. If you need any additional equipment rates Asplundh will furnish those rates as needed.

If you have any questions or need any additional information please contact me at 859-887-5902.

Sincerely,


Dave Ellifritz
Manager
Asplundh Tree Expert Co.

SCHEDULE "A" CUMBERLAND VALLEY ELECTRIC
DISTRIBUTION/SERVICE LINE RIGHT-OF-WAY CLEARING CONTRACT

Forming part of the General Agreement between CUMBERLAND VALLEY ELECTRIC and
ASPLUNDH TREE EXPERT COMPANY, this date 01/01/2003.

Labor, Material & Equipment Rates:

REGULAR BILLING RATE: Covers a 40-hour work week (5- 8 hour days with a privilege of making up lost time by extending the work day or work week to include Saturdays).

OVERTIME BILLING RATE: Applies to overtime emergency work when authorized. An additional 45% will be added to straight time billing rates.

	Pay Rates	Billing Regular	Over time (45%)
FOREMAN A	11.25	19.03	27.59
TRIMMER A	10.30	17.66	25.61
TRIMMER B	9.00	15.79	22.90
LABORER	7.50	13.63	19.76

EQUIPMENT

PER CREW HOUR

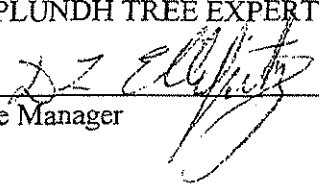
Pickup Truck	6.00
Split Dump	5.75
Trim-lift	10.25
12" Chipper	2.25
Power Saw	.60
1 Ton Spray Truck (300 gal tank)*	14.50
Pick-up (200 gal tank)	10.50

*Rates for equipment not listed can be supplied upon request.

Approved:
CUMBERLAND VALLEY ELECTRIC

SUBMITTED:
ASPLUNDH TREE EXPERT CO.

By: _____
Title _____
Date _____

By:  _____
Title Manager

SCHEDULE "A" CUMBERLAND VALLEY ELECTRIC
DISTRIBUTION/SERVICE LINE RIGHT-OF-WAY CLEARING CONTRACT

Forming part of the General Agreement between CUMBERLAND VALLEY ELECTRIC and ASPLUNDH TREE EXPERT COMPANY, this date 11/05/2004.

Labor, Material & Equipment Rates:

REGULAR BILLING RATE: Covers a 40-hour work week (5- 8 hour days with a privilege of making up lost time by extending the work day or work week to include Saturdays).

OVERTIME BILLING RATE: Applies to overtime emergency work when authorized. An additional 45% will be added to straight time billing rates.

	Billing Regular	Over time (45%)
FOREMAN A	20.01	29.02
TRIMMER A	18.60	26.97
TRIMMER B	16.65	24.14
LABORER	15.50	22.48

<u>EQUIPMENT</u>	<u>PER CREW HOUR</u>
Pickup Truck	7.00
Split Dump	6.75
Trim-lift	11.50
12" Chipper	2.75
Power Saw	.90
1 Ton Spray Truck (300 gal tank)*	14.50

*Rates for equipment not listed can be supplied upon request.

Approved:
CUMBERLAND VALLEY ELECTRIC

By: _____
Title _____
Date _____

SUBMITTED:
ASPLUNDH TREE EXPERT CO.

By: D L Elliff
Title Manager

August 26, 2004

Joe Carroll
P O Box 176
Pineville, KY 40977

Dear Joe:

Approximately 4 weeks ago, I ask you to return all equipment owned by Cumberland Valley Electric. As of August 26, we have not received any equipment.

Please return all equipment to Cumberland Valley's office no later than September 15, 2004.

Sincerely,

Ted Hampton, Manager

cc: Pat Hauser, Attorney

EXHIBIT
C

